

FRANCHISE NEW / TRANSFER

No. PW 2023-0287

Hensler Off-site Septic

March 20, 2024



HENSLER OFF-SITE SEPTIC NEW / TRANSFER FRANCHISE (WHIDBEY ISLAND)

Sewer Collection System



Background:

- Location: Saratoga Beach, Langley
- Approximately 800 feet of County roads (Holmes View Dr, Nautical Way, E Harbor Rd)
- Previous owner: Tomlinson & Hurley (franchise #385)
- Duration: 10 years -- with option to extend an additional 10 years

Requirements:

- No interference with County road travel
- Obtain Permits, when required
- 24 hour / 7 days emergency response
- Maintain necessary insurances
- Comply with Federal & State law



QUESTIONS



Shoreline Master Program Periodic Update

Shoreline Regulation Discussion

Shoreline Master Plan

- ❖ 2028 is the next scheduled update for the Shoreline Master Program, other code changes may follow the Climate Resilience Element from the Comprehensive Plan Update.
- ❖ Additional code updates and changes to Shoreline Environmental Designations can happen during the next update or also following work done on the Climate Resilience Element.
- ❖ Reworking definitions into a standalone code chapter 17.01 of Island County Code.

Pre-application Conference Requirement

- ❖ Pre-application conferences are proposed to be required for shoreline development requiring the following permits:
- ❖ **Substantial Development Permits**
- ❖ **Shoreline Conditional Use Permits**
- ❖ **Shoreline Variances**

SMP Mapping Updates

- ❖ Lagoons with associated wetlands and Shoreline Residential Historic Beach Community (SRHBC) mapping updated.
- ❖ During this update, staff identified all parcels that met the HBC qualifications.

SMP Mapping Updates

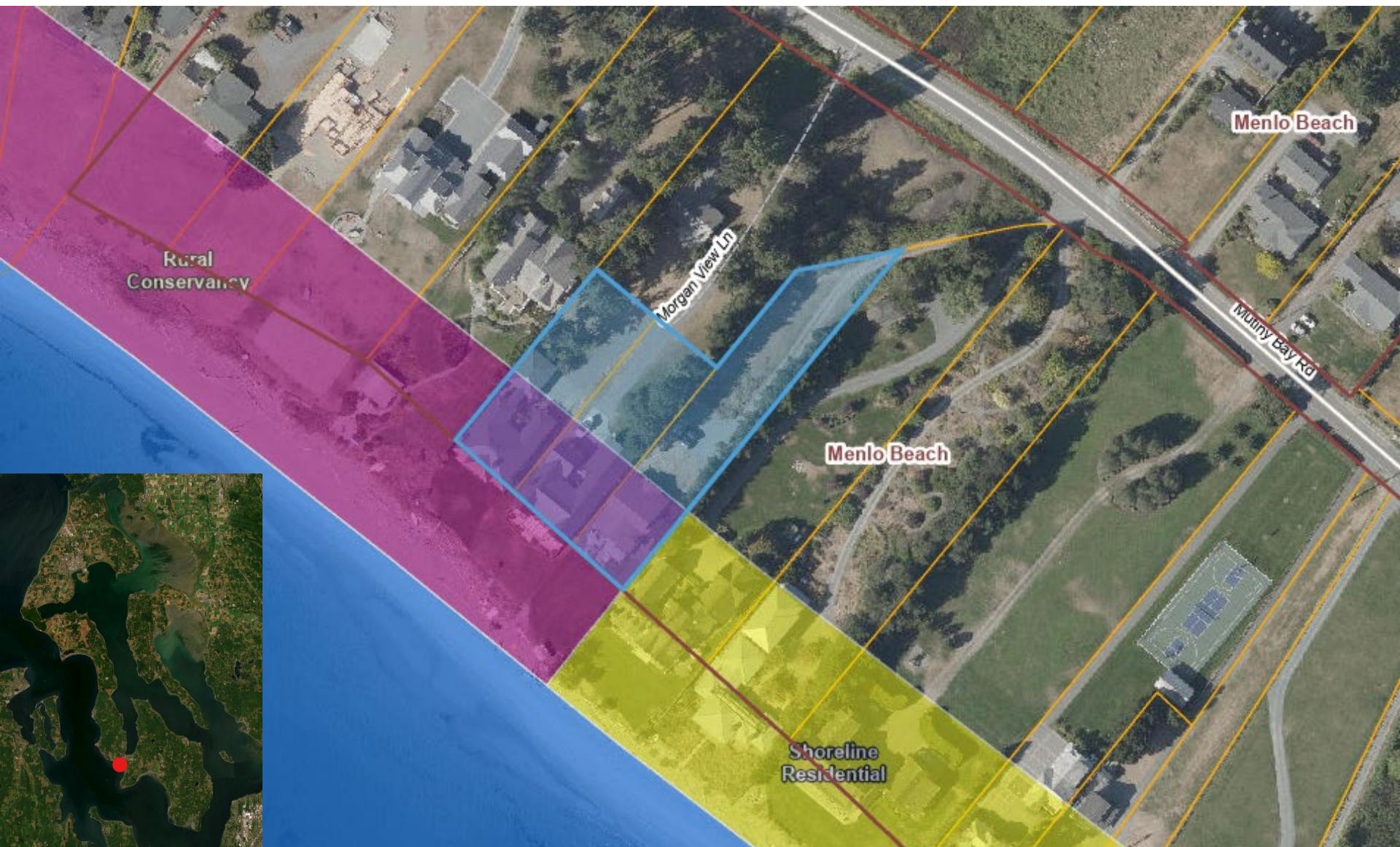
Rural Conservancy Purpose:

The purpose of the rural conservancy designation is to protect, conserve, and manage ecological functions, harvestable natural resources, and aesthetic, cultural, historic, and recreational areas in order to provide for rural residential use and recreational opportunities.

Shoreline Residential Purpose:

The primary purpose for designating an area shoreline residential is to allow for residential development and for moderate to high impact recreational uses in appropriate areas of the shoreline.

Rural Conservancy to Shoreline Residential Proposal



Should versus Shall

17.05A.090.N.12 states:

All new development proposals must select the least impactful area for development. Where feasible, development **shall or should** be located outside of the Special Flood Hazard Area

- Flood regulations require structures to have their first floor built above flood level.
- Development in flood zone must be compatible with ecological functions, fish and wildlife management, and recreation.

Shoreline Septic Repairs

Most septic components can be replaced in the shoreline with a Limited Review Shoreline Exemption permit.

- Drainfields currently require a Shoreline Exemption permit, which could require thousands of dollars for reports.
- If allowed under a Limited Review, this would reduce paperwork and process/staff time.
- If not allowed under a Limited Review, the project will likely be approved after the review.

Public Comments

- ❖ Planning staff received 38 public comments from 17 unique commenters during the open comment period. Three further comments were received outside of the comment period, two of which were from previous commentors.
- ❖ Comments were thorough and thoughtful.
- ❖ Some comments proposed stricter regulations, some more lenient regulations.

Next Steps

- Notice and hold new Public Hearing
 - OR -
- Approve at Regular Session
- Once approved locally, send to Department of Ecology for final review (a collaborative process during which there will be opportunities to correct any deficiencies)

Sections below left for now...

Potential definition additions

- ❖ Critical Areas definitions are incorporated by reference
(This includes the following definition)
- ❖ **Reasonable use** means the logical or rational use of a specific parcel of land which a person can be expected to conduct or maintain fairly and appropriately under the specific circumstances, considering the size of the lot, the type of use or structure proposed and similar uses and structures in the general vicinity of the lot, that are permitted uses consistent with and conforming to current regulations.

Potential definition additions

- ❖ The SMP defines retaining walls, and lists requirements for upland retaining walls.

Retaining wall means structure placed behind the OHWM which acts as a stabilizing mechanism for unstable geologic conditions, foundation support for structures, or to retain land behind the retaining wall. A structure that, by design or actual function, prevents erosion of upland materials from the action of waves or tides is not considered a retaining wall.

Potential definition additions

17.05A.110.A.2.f states:

Upland retaining walls within shoreline jurisdiction are a type of shoreline stabilization installed at least 10-feet landward of the OHWM, and are only permitted to protect an existing primary structure or use. Upland retaining walls require an alternatives analysis and demonstration of need through a geocoastal analysis, and will also require a biological site assessment when proposed within the shoreline marine buffer. Types of upland retaining walls include but are not limited to geometric grid systems, placement of large woody debris, riprap, terracing, and interlocking stone walls. Soft shore designs are preferred over structural designs.

Potential definition additions

- ❖ **Flood** means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters; and/or
 2. The unusual and rapid accumulation of runoff of surface waters from any source.
- ❖ **Tidal Inundation** means the process in which seawater is driven up stormwater drainage outlets, or over land, that is normally dry ground. Tidal inundation events occur due to a number of factors including king tides, low pressure cells, poor natural drainage, low-lying areas and rising sea levels.

Shoreline Master Plan Updates

- ❖ Removed 17.05A.110.A.3.f Replacement of existing shoreline stabilization shall be regulated as new stabilization.
- ❖ Artificial versus Natural Shorelines – only distinction in the SMP is special regulations for canal communities.
- ❖ Shoreline Exemption Limited Review for raising a house in the flood zone.

Shoreline Master Plan Updates

- ❖ Shoreline Master Program Handbook

Guidance document, not regulatory

Adopting Chapter 15 for Shoreline Stabilization
will not make the bulkhead approval process
easier.

Shore Friendly Program

- ❖ Bulkhead removal
- ❖ Soft shore protection
- ❖ Native vegetation installation
- ❖ Drainage management
- ❖ House or septic relocation

Shoreline Exemption Limited Review for Septic Systems

- ❖ Allowed in code: like-for-like replacement of septic components, not to include drainfield replacement or relocation, which do not increase septic capacity by more than ten (10) percent.
- ❖ Proposed language: like-for-like replacement of septic components which do not increase septic capacity by more than ten (10) percent.

Comments Received

- ❖ Washington Department of Fish and Wildlife – provided comments to more closely align the SMP with state law and best available science.
- ❖ Tidal action – tidal action is in the 2016 and 2020 SMPs (17.05A.095.C.1.a – the primary structure or appurtenance is in danger of damage from shoreline erosion caused by tidal action, currents, or waves;)
- ❖ Three year standard – if not met to allow for hard armoring, report can still be used to allow for soft shore armoring
- ❖ Allow for drainfield replacement under a Shoreline Exemption Limited Review (SHE-LR) – currently all other septic components can be replaced under a SHE-LR, net positive compared to a malfunctioning septic system

Historic Beach Communities

- ❖ Previously, Island County listed certain plats that qualified as Historic Beach Communities (HBC), other parcels could use HBC if they met the qualifications.
- ❖ This led to HBC standards being applied unevenly, different planners could have administered the code differently.
- ❖ During this update, staff identified all parcels that met the HBC qualifications.
- ❖ Ecology reviewed the new mapping and approved or denied based on their strict reading of the code.
- ❖ HBC qualifications (all must be met to qualify):
 - 30-foot average building setback from the Ordinary High Water Mark;
 - Plats that were finalized prior to the 1972 Washington State Shoreline Management Act (SMA), or parcels that were originally developed prior to the 1972 SMA;
 - Groups consisting at a minimum of five contiguous parcels; and
 - Areas that are currently mapped as Shoreline Residential.

Bulkhead Approval Process

- ❖ Application and fees received
- ❖ Determination of completeness application packet – checking for required reports
- ❖ Notice of complete application and posting notice on site
- ❖ Application and reports consulted to see if code requirements are met
 - ❖ Determination of need
 - ❖ Alternatives analysis
- ❖ Staff report and SEPA determination issued
- ❖ If approved, work can begin after any appeals periods
- ❖ Removed 17.05A.110.A.3.f – Replacement of existing shoreline stabilization shall be regulated as new stabilization.

Comments Received

- ❖ Washington Department of Fish and Wildlife – provided comments to align the SMP with state law and best available science.
- ❖ Tidal action – tidal action is in the 2016 and 2020 SMPs (17.05A.095.C.1.a – the primary structure or appurtenance is in danger of damage from shoreline erosion caused by tidal action, currents, or waves;)
- ❖ Three year standard – if not met to allow for hard armoring, report can still be used to allow for soft shore armoring
- ❖ Flooding is regulated under 14.02A – SMP does not need a overlapping set of standards
- ❖ Allow for drainfield replacement under a Shoreline Exemption Limited Review(SHE-LR) – currently all other septic components can be replaced under a SHE-LR, also a net positive compared to a malfunctioning septic system

Comments Received - continued

- ❖ Anchored log soft shore is categorized the same as a bulkhead – soft shore is two levels below bulkheads in the Alternatives Analysis.
- ❖ To years to get soft shore permit – permit timelines are outside of the subject of this update
- ❖ Undeveloped properties needing protection – would require a Substantial Development Permit (not a Shoreline Exemption) and meet the requirements of 17.05A.110.A.2.d, possible in situations where a neighboring primary residence or appurtenance is proved to be at risk
- ❖ What is the real ecological damage caused by bulkheads and soft shore systems? – Bulkheads cause beach scouring and a deepening of near shore habitat, leading to reduced forage fish habitat, soft shore systems reduce this impact
- ❖ Soft shore has been proved to be effective in limiting erosion from current storm events, but will not provide protection for long-term sea level rise – soft shore systems can be designed with sea level rise in mind

Comments Received - continued

- ❖ Commenter requesting modifications to WAC 173-26-231 – outside the scope of this update

Steep Slopes

- ❖ SMP cross references Geologically hazardous area definition in 17.02B, but also has its own definition of same which is more detailed – in this instance, 17.05A.040 D “If a conflict exists between the development regulations outlined in this Chapter and those of another Chapter of Island County Code, the more restrictive shall apply.”
- ❖ 17.05A.100.F.11 refers to requirements in 17.02B that could be modified to 17.05A
- ❖ 17.05A.100.K.12 refers to the definition of Geologically hazardous areas from 17.02B, where it could be modified to refer to the definition in 17.05A
- ❖ Figure 4 does not list requirements to meet 11.02, but 17.05A.100.K.12 references those requirements

Comments Received - continued

- ❖ SMP does not clarify that the 250 yards of grading that is considered an appurtenance to a single-family residence is outside of any necessary fill to build said single-family residence – this has been clarified to Planning staff at a recent staff meeting
- ❖ Trend analysis – based on prior rates of erosion, if a logarithmic rate of erosion is noted?
- ❖ Substantial Development Permits – can be required for shoreline stabilization in certain instances, such as when a project exceeds standards for backfill (one cubic yard per linear foot of stabilization)
- ❖ Nonconforming lot – met the standards when established, but now fails to meet required width, depth, or area due to changes to the SMP, can be developed upon if meeting land use and SMP requirements

Comments Received - continued

- ❖ **RCW 90.58.100(6)** Each master program shall contain standards governing the protection of single-family residences and appurtenant structures against damage or loss due to shoreline erosion. The standards shall govern the issuance of substantial development permits for shoreline protection, including structural methods such as construction of bulkheads, and nonstructural methods of protection. The standards shall provide for methods which achieve effective and timely protection against loss or damage to single-family residences and appurtenant structures due to shoreline erosion. The standards shall provide a preference for permit issuance for measures to protect single-family residences occupied prior to January 1, 1992, where the proposed measure is designed to minimize harm to the shoreline natural environment.
- ❖ **RCW 90.58.630 Shoreline master programs—Impact of sea level rise and storm severity.** The department shall update its shoreline master program guidelines to require shoreline master programs to address the impact of sea level rise and increased storm severity on people, property, and shoreline natural resources and the environment.